



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 15, 2022

Ms. Jessika Williams
Assistant City Attorney
City of Fort Worth
200 Texas Street, Third Floor
Fort Worth, Texas 76102

OR2022-28359

Dear Ms. Williams:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 972932 (ORR# E003761).

The City of Fort Worth (the "city") received a request for records related to a specified arrest of a named individual. We understand the city will redact dates of birth of members of the public pursuant to the previous determination issued in Open Records Letter No. 2016-00620 (2016).¹ The city claims some of the submitted information is exempted from disclosure under section 552.101 of the Government Code. We have considered the exception the city claims and reviewed the submitted information.

Section 552.101 of the Government Code exempts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses the doctrine of common-law privacy, which protects information that is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person, and (2) not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be satisfied. *Id.* at 681-82. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. Additionally, this office has concluded some kinds of medical information are generally highly intimate

¹ Open Records Letter No. 2016-00620 authorizes the city to withhold public citizens' dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy without requesting an attorney general decision. *See* Open Records Decision No. 673 at 7-8 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code).

or embarrassing. *See* Open Records Decision No. 455 (1987). Upon review, we find some of the submitted information, which we marked, satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Therefore, the city must withhold the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy. However, we find the city has not demonstrated any of the remaining information it marked is highly intimate or embarrassing, or the information is of legitimate public concern in this context. Thus, the city may not withhold any portion of the remaining information under section 552.101 in conjunction with common-law privacy. The city must release the remaining information to this requestor.²

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/pt

Ref: ID# 972932

Enc. Submitted documents

c: Requestor
(w/o enclosures)

² We note the requestor has a right of access to some of the information being released. *See* Gov't Code § 552.023(a) (governmental body may not deny access to person to whom information relates or person's agent on ground that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves).